IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 5TH DECEMBER 2007 / 14TH AGRAHAYANA 1929

Bail Appl..No. 7458 of 2007()

CMP.7889/2007 of J.M.F.C., PARAVOOR
CRIME NO.480/07 OF CHATHANNOOR POLICE STATION

.....

: PETITIONER/ACCUSED

ARUN @ SWAMI, S/O.RETNAKARAN,
KARUNA, POIKAYIL KUNNATHU VEEDU,
NEAR M.C.PURAM, MEENADU KIZHAKKUMKARA CHERRY,
MEENADU VILLAGE.

BY ADV. SRI.C.RAJENDRAN

RESPONDENTS: COMPLAINANT

STATE OF KERALA,
REPRESENTED BY THE SUB INSPECTOR,
CHATHANNOOR POLICE STATION THROUGH
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 05/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.7458 of 2007

Dated this the 5th day of December, 2007

ORDER

Application for regular bail. Petitioner is the 3rd accused. Altogether there are 4 accused. They face allegations of having committed offences punishable under the Kerala Abkari Act. All the 4 accused, on 08.09.07, were found engaged in the activity of dealing with 630 litres (35 X 18) of spirit. Seeing the detecting party, the accused took to their heels. The 1st accused was arrested. All the 3 other accused could not be apprehended. The names and complicity of the petitioner are revealed in the contemporaneous seizure mahazar. The petitioner was arrested long later on 23.10.07. He continues in custody from that date. Accused 2 and 4 have not been arrested yet.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. He had nothing to do with the alleged offence. Totally false allegations are now being raised against the petitioner, it is submitted.

3. The learned Public Prosecutor opposes the application. The allegations are serious. Investigation is not complete. The

petitioner may not be enlarged on bail at this stage, submits the learned Public Prosecutor .

4. In the wake of opposition by the learned Public Prosecutor, regular bail can be granted to the petitioner only if this Court is in a position to entertain both the satisfactions contemplated under Section 41 A of Kerala Abkari Act. In the facts and circumstances of this case I am unable to entertain either of those two satisfactions. I find merit in the opposition by the learned Public Prosecutor. In a case like this the investigators are certainly entitled to reasonable further time to complete the investigation.

5. This application is, in these circumstances, dismissed. I may hasten to observe that the petitioner shall be at liberty to move this Court for bail again at a later stage of the proceedings, not, at any rate, prior to 19.12.2007. The investigator shall in the meantime make every endeavour to complete the investigation.

(R.BASANT, JUDGE)

rtr/-